

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 108th Congress ¹**

[Date approved: August 27, 2004]²

Bill No. and sponsor: H.R. 4428 (Rep. Roy Blunt)

Proponent name, location: Not available.³

Other bills on product (108th Congress only): None.

Nature of bill: To provide duty-free treatment for tents from certain Middle Eastern countries.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

The bill would affect tents, other than backpacking tents, of synthetic fibers (provided for in subheading 6306.22.90), but would not create a tariff rate line or legal note; instead, it authorizes the President to proclaim a tariff preference for this narrow product group.

Check one: ☐ Same as that in bill as introduced
☒ Different from that in bill as introduced (explain differences in Technical comments section)

Product information, including uses/applications and source(s) of imports:

The subject tents and screenhouses are made of synthetic fibers and may contain other materials such as vinyl. Backpacking tents, which are separately provided for in the HTS, would not be affected by the measure. China is the major source of these tents, accounting for 53 percent of U.S. imports by value in 2003, followed by Bangladesh and Korea, each accounting for 13 percent.

¹ Industry analyst preparing report: Gail Burns (202-205- 2501); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm> Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

³ Brian Diffell of Rep. Blunt's office was contacted by Commission staff by telephone on Feb. 15, 2004. Mr. Diffell did not identify the proponent of the bill, but did assert that he was informed that there was no more than one U.S. producer of the subject tents, if any. Mr. Diffell was notified by Commission staff that there were producers of these items, some of which oppose H.R. 4428.

Estimated effect on customs revenue:

| HTS subheading: 6306.22.90 | | | | | |
|---|---------------|---------------|---------------|---------------|---------------|
| | 2004 | 2005 | 2006 | 2007 | 2008 |
| Col. 1-General rate of duty (AVE) 1/ | 8.8% | 8.8% | 8.8% | 8.8% | 8.8% |
| Estimated value <i>dutiable</i> imports | \$238,000,000 | \$286,000,000 | \$300,000,000 | \$340,000,000 | \$380,000,000 |
| Customs revenue loss | \$20,944,000 | \$25,168,000 | \$26,400,000 | \$29,920,000 | \$33,440,000 |

1/ Where applicable, the AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available. The general duty rate for the subject goods is stated at 8.8 percent ad valorem.

Source of estimated dutiable import data: Commission estimates.

Contacts with domestic firms/organizations (including the proponent):

| Name of firm/organization | Date contacted | US production of same or competitive product claimed? | Submission attached? | Opposition noted? |
|--|----------------|---|----------------------|-------------------|
| | | (Yes/No) | | |
| BondCote Corporation, Sherry Webb, (ph) 800-255-9338 | 02/17/04 | Yes | Yes | N.A. ⁴ |
| Industrial Fabrics Association International, Stephen Warner, (ph) 651-222-2508 | 02/20/04 | Yes | Yes | Yes |
| Armbruster Mfg. Co., Bernard Armbruster, (ph) 800-637-4326 | 02/20/04 | Yes | Yes | Yes |
| TopTec, Inc., Michael E. Tharpe, (ph) 800-845-2830 | 02/20/04 | Yes | Yes | Yes |
| Anchor, Industries, Inc., Pete Mogavero, (ph) 812-867-2421 | 02/20/04 | Yes | Yes | Yes |
| Fabric Structures Inc., Elizabeth T. Murrell, (ph) 201-225-1899 | 02/25/04 | Yes | Yes | Yes |

⁴ No position on the bill was noted in the e-mail from BondCote Corp.

Technical comments:⁵

We would note that the bill would establish a complex administrative program to handle a one-product tariff preference for a group of countries that are not all eligible for tariff preferences at present. For example, some members of the Organization of Petroleum Exporting Countries are not eligible for tariff preferences, but this bill would grant them a tariff preference on a single tariff category while excluding other developing countries already designated under various preference programs. Moreover, a portion of the subject shipments might now be eligible for preferential treatment under the terms of HTS general note 3(a)(v), covering products of the West Bank, the Gaza Strip or a qualifying industrial zone on essentially the same basis accorded to products of Israel under our bilateral free trade agreement (see HTS general note 8). For those areas, the proposed bill would limit some of the benefits available under that program, given that the bill would add a review and termination administrative framework very similar to that employed under the Generalized System of Preferences (GSP). General note 3(a)(v) does not contain that sort of administrative mechanism but instead makes available a tariff benefit based on the concept of substantial transformation, with a 35 percent value content threshold to qualify. This value content limit is the same one applied under the GSP, but goods of the HTS rate line in question are ineligible for GSP benefits because they have been subject to textile agreements.

Clarifying language should be added to the scope of the bill's "eligible article" definition in section 1(b) to indicate that the tents are those of synthetic fibers and would not include backpacking tents. This limitation could be achieved by inserting " , other than backpacking tents," after "any tent" in that subdivision of the bill.

⁵ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

108TH CONGRESS
2D SESSION

H. R. 4428

To extend trade benefits to certain tents imported into the United States.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

Mr. BLUNT introduced the following bill; which was referred to the Committee
on Ways and Means

A BILL

To extend trade benefits to certain tents imported into the
United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DUTY FREE TREATMENT FOR TENTS FROM**
4 **CERTAIN MIDDLE EASTERN COUNTRIES.**

5 (a) DUTY FREE TREATMENT.—Notwithstanding any
6 other provision of law, the President shall provide duty-
7 free treatment for any eligible article from a beneficiary
8 country designated under section 2.

9 (b) ELIGIBLE ARTICLE.—For purposes of this Act,
10 the term “eligible article” means any tent with a sewn
11 in floor and base size less than 20’ by 20’ classified under

1 subheading 6306.22.90 of the Harmonized Tariff Sched-
2 ule of the United States.

3 **SEC. 2. DESIGNATION OF ELIGIBLE COUNTRIES.**

4 (a) IN GENERAL.—The President shall, upon the en-
5 actment of this Act designate each country listed in sub-
6 section (d) as a beneficiary country unless, and shall
7 thereafter withdraw such designation from any such coun-
8 tries if—

9 (1) the country is listed by the United States
10 Department of State as a state sponsor of terrorism;
11 or

12 (2) the country engages in activities that under-
13 mine United States national security or foreign pol-
14 icy interests.

15 (b) REVIEWS.—Beginning 1 year after the date of the
16 enactment of this Act, and annually thereafter, the Presi-
17 dent shall conduct a review to determine if a basis exists
18 for withdrawing the designation of a country as a bene-
19 ficiary country under this Act. In determining whether or
20 not to withdraw such designation, the President shall con-
21 sider—

22 (1) whether or not the country has established,
23 or is making continual progress toward estab-
24 lishing—

1 (A) a market-based economy that protects
2 private property rights, incorporates an open
3 rules-based trading system, and minimizes gov-
4 ernment interference in the economy through
5 measures such as price controls, subsidies, and
6 government ownership of economic assets;

7 (B) the rule of law and the right to due
8 process, a fair trial, and equal protection under
9 the law;

10 (C) political pluralism, a climate free of
11 political intimidation and restrictions on peace-
12 ful political activity, and democratic elections
13 that meet international standards of fairness,
14 transparency, and participation;

15 (D) the elimination of barriers to United
16 States trade and investment, including by—

17 (i) providing national treatment and
18 measures to create an environment condu-
19 cive to domestic and foreign investment;

20 (ii) protecting intellectual property;
21 and

22 (iii) resolving bilateral trade and in-
23 vestment disputes;

24 (E) economic policies that reduce poverty,
25 increase the availability of health care and edu-

1 cational opportunities, expand physical infra-
2 structure, promote the development of private
3 enterprise, and encourage the formation of cap-
4 ital markets through micro-credit or other pro-
5 grams;

6 (F) a system to combat corruption and
7 bribery, such as signing and implementing the
8 OECD Convention on Combating Bribery of
9 Foreign Public Officials in International Busi-
10 ness Transactions;

11 (G) protection of internationally recognized
12 worker rights, including the right of association,
13 the right to organize and bargain collectively, a
14 prohibition on the use of any form of forced or
15 compulsory labor, a minimum age for the em-
16 ployment of children, and acceptable conditions
17 of work; and

18 (H) policies that provide a high level of en-
19 vironmental protection;

20 (2) the country's record on activities that un-
21 dermine United States national security or foreign
22 policy interests, and support of a peaceful resolution
23 of the Israeli-Palestinian conflict;

24 (3) whether the country is a signatory of the
25 United Nations Declaration of Human Rights, en-

1 gages in gross violations of internationally recog-
2 nized human rights, and is making continuing and
3 verifiable progress on the protection of internation-
4 ally recognized human rights, including freedom of
5 speech and press, freedom of peaceful assembly and
6 association, and freedom of religion;

7 (4) the country's participation in the primary,
8 secondary, or tertiary economic boycott of Israel;
9 and

10 (5) whether the country otherwise meets the eli-
11 gibility criteria set forth in subsection (b)(2) of sec-
12 tion 502 of the Trade Act of 1974 (19 U.S.C.
13 2462), other than subparagraph (B) of such sub-
14 section.

15 (c) CONTINUING COMPLIANCE.—If the President de-
16 termines under subsection (b) that a country should no
17 longer be designated as a beneficiary country, the Presi-
18 dent shall withdraw such designation.

19 (d) COUNTRIES ELIGIBLE FOR DESIGNATION.—The
20 countries referred to in subsection (a) are the following
21 countries of the greater Middle East or their successor po-
22 litical entities:

23 (1) Afghanistan.

24 (2) Algeria.

25 (3) Azerbaijan.

1 (4) Bahrain.

2 (5) Bangladesh.

3 (6) Egypt.

4 (7) Iraq.

5 (8) Kuwait.

6 (9) Lebanon.

7 (10) Morocco.

8 (11) Oman.

9 (12) Pakistan.

10 (13) Qatar.

11 (14) Saudi Arabia.

12 (15) Tunisia.

13 (16) Turkey.

14 (17) United Arab Emirates.

15 (18) Yemen.

16 (e) THE PALESTINIAN AUTHORITY.—

17 (1) DESIGNATION.—The President is author-
18 ized to designate the Palestinian Authority or its
19 successor political entity as a beneficiary political en-
20 tity which, if so designated, shall be eligible for the
21 duty-free treatment under this Act as if it were a
22 beneficiary country, if the President determines that
23 the Palestinian Authority—

24 (A) does not participate in acts of ter-
25 rorism, takes active measures to combat ter-

1 rorism, and cooperates fully in international ef-
2 forts to combat terrorism;

3 (B) does not engage in activities that un-
4 dermine United States national security or for-
5 eign policy interests;

6 (C) does not engage in gross violations of
7 internationally recognized human rights, and is
8 making continuing and verifiable progress on
9 the protection of internationally recognized
10 human rights, including freedom of speech and
11 the press, freedom of peaceful assembly and as-
12 sociation, and freedom of religion; and

13 (D) accepts Israel's right to exist in peace
14 within secure borders.

15 (2) WITHDRAWAL.—The President shall with-
16 draw the designation of the Palestinian Authority
17 under paragraph (1) at any time that the President
18 determines that the Palestinian Authority no longer
19 meets the requirements of paragraph (1).

20 (f) NOTIFICATION OF CONGRESS.—In any case in
21 which the President withdraws the designation of a coun-
22 try as a beneficiary country under subsection (a) or (c),
23 or withdraws the designation of the Palestinian Authority
24 under subsection (d)(2), the President shall notify the
25 Congress of such withdrawal and the reasons therefor.

1 **SEC. 3. RULE OF ORIGIN GENERAL RULE.**

2 (a) GENERAL RULE.—

3 (1) DUTY-FREE TREATMENT.—The duty-free
4 treatment provided under this Act shall apply to any
5 article which is the growth, product, or manufacture
6 of 1 or more beneficiary countries if—

7 (A) that article is imported directly from a
8 beneficiary country into the customs territory of
9 the United States; and

10 (B) the sum of—

11 (i) the cost or value of the materials
12 produced in 1 or more beneficiary coun-
13 tries, plus

14 (ii) the direct cost of processing oper-
15 ations performed in such beneficiary coun-
16 try or countries,

17 is not less than 35 percent of the appraised
18 value of such article at the time it is entered.

19 (2) U.S. CONTENT.—For purposes of deter-
20 mining the percentage referred to in paragraph
21 (1)(B), if the cost or value of materials produced in
22 the customs territory of the United States is in-
23 cluded with respect to an article to which this para-
24 graph applies, an amount not to exceed 15 percent
25 of the appraised value of the article at the time it
26 is entered that is attributed to such United States

1 cost or value may be applied toward determining the
2 percentage referred to in paragraph (1)(B).

3 (b) DEFINITION.—In this section, the term “entered”
4 means entered, or withdrawn from warehouse for con-
5 sumption, in the customs territory of the United States.

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